

DRAFT

MINUTES
JANUARY 22, 1996

CONT. PUBLIC HEARING: Laurajon Drive Definitive Subdivision
CONT. PUBLIC HEARING: Cross St. Special permits for Conservation
Cluster and Common Drive
CONT. PUBLIC HEARING: Pine Meadow Definitive Subdivision
CONT. PUBLIC HEARING: Baldwin Rd. Special Permit for Common Drive

Chair Colman convened the meeting at 7:15 p.m. All members were present: Colman, Duscha, Epstein, Hengeveld, LaLiberte, Tice and Yanofsky. Also present was Planning Administrator Mansfield.

MINUTES: The minutes of the meeting of December 18, 1995, were approved as amended on a motion by Duscha, seconded by Hengeveld. The amendments are as follows:

- p. 4 Re: comments by Vivian Chaput on Pine Meadow, paragraph 2 - replace "since she is currently working on revisions to the Conservation Cluster by-law, waiting until those are adopted by the Town..." with she is currently working on revisions to the Conservation Cluster by-law, and if those changes are adopted by the Town... (amendment proposed by Duscha).
- p. 5 Re: Pine Meadow, paragraph 1 - insert comma after November 21 paragraph 2 - change January 1 to January 8 (corrections noted by LaLiberte).

CONTINUED PUBLIC HEARING: Laurajon Drive Definitive Subdivision

Colman reopened the hearing at 7:25 p.m. and announced that no testimony would be taken, but that the hearing would be continued until the next meeting as requested by the applicant's representatives. Mansfield informed the Board that the applicant's attorney had suggested that a further continuance (for which an additional extension would be necessary) may be sought at the next meeting, since the Conservation Commission has requested information and revisions to the plan that are not likely to be complete by that time. Mansfield also noted that he had not received any revisions to the plan to date.

Duscha then offered and Tice seconded a motion to continue the public hearing to 7:25 p.m. on February 12, 1996. Fred Lewis of 141 Bedford Rd. asked whether the applicant had observed the deadline for filing a proper request for an extension of time set by the Board at its December 18 meeting. Mansfield replied that he had. The previous motion was approved by a vote of 7-0.

CONTINUED PUBLIC HEARING: Cross St. Special permits for Conservation Cluster and Common Drive

Colman reopened the hearing at 7:30 p.m. Present were Chris Fielding, Joe March of Stamski and McNary and Dick and Judy Wells. March submitted revisions to the application for a common driveway, showing three ANR lots served by a common drive. The length of the drive has been reduced and a slight bend has been incorporated in the layout to accommodate a septic system for a house on the lot fronting on Cross St. He noted that all previous engineering comments had been addressed in this plan. He also asked, on behalf of the applicant, for a formal approval or denial of the requested permit for a conservation cluster.

Colman replied that the Board and the P.A. will need time to review the revised plans, and asked if there were any questions. Tice asked for an explanation of the grading changes shown on the driveway. March replied that there is no change at the point of intersection with Cross St. He went on to add that lot 1 is 5.8 acres, lot 2 is 3.9 acres and lot 3 is 4.8 acres. One lot has 250 ft. of frontage; the other two are "pork chop" lots with minimum frontage. The abutting lot to the north is non-conforming, but not a "pork chop" lot. Hengeveld asked the P.A. to check for an ANR endorsed last fall concerning a neighboring parcel and report back to the Board.

Yanofsky raised a question regarding section #3 of the proposed maintenance agreement, observing that references to "Fielding" might give the applicant more than equal power in subsequent maintenance and repair decisions. Epstein agreed, stating that each owner should be treated equally, and referred Fielding and March, as a model, to the draft agreement that had been submitted by Evans to accompany the proposed Baldwin Rd. common driveway application. Fielding replied that this section of the agreement had been written in this form to cover the period of construction, but it could be modified. Yanofsky requested that an indemnification clause, also similar to that in the Evans' agreement, be included in this agreement as well.

Colman stated once again that additional detailed review of these changes is necessary, including review by LandTech of any new engineering concerns. Duscha asked whether the LandTech review can be directed exclusively to the modified elements, and Colman replied that he hoped their review would be limited. Yanofsky suggested that the Board apprise LandTech that we believe that the plans are identical except where specific changes are referenced, and March replied that he believes his letter of January 22 makes that point. He asked that the P.A. forward that letter and one set of plans to LandTech. March also added that he would provide an ANR plan for Board endorsement when the Board indicates it is ready for such action.

After Mansfield explained the option of the applicant requesting withdrawal of the conservation cluster permit request, Fielding reiterated that he wanted a vote on the cluster application so that he could move ahead on the project, adding that he understood the peril of

a denial precluding a resubmission of the same request within two years. Duscha then moved that the Cross Street conservation cluster special permit be approved, and Tice seconded that motion. The motion failed to carry by a vote of 3 in favor (Duscha, Tice and Yanofsky) and 4 opposed (Colman, Epstein, Hengeveld and LaLiberte).

Judy Wells of Berry Corner Lane expressed her pleasure with the results of the vote since she could now anticipate three new houses instead of four.

Duscha then moved to continue the hearing for the common driveway special permit to 7:45 p.m. on February 12, 1996. Tice seconded the motion and it carried unanimously.

Town Report

Mansfield gave notice that the Planning Board's submission for the 1995 Town Report is due in the Town Administrator's office by February 6. Duscha agreed to draft the report with Mansfield filling in the history of the past year and the numbers from the files. Yanofsky suggested that the report should convey the workload of the Board, and Mansfield added that an accounting of fees generated by that work should be included. Tice suggested that the report be arranged in some sort of tabular format, and agreed to help in the effort. Epstein suggested that the report make reference to concerns about the water supply, planting a seed for support for a hydrologic study.

CONTINUED PUBLIC HEARING: Pine Meadow Definitive Subdivision

Colman reopened the public hearing at 8:00 p.m. Present were Bill Costello, Joe March of Stamski and McNary, Gabor and Bonnie Miskolczy, Tony and Claire Mariano, Kathleen Coyle, Mike Saylor, Mervel Cantrill, Chad Carpenter, David Reed, Jay and Luisa Heard, Scott Batchelder, Kathy McDonough, Jean Morin, David Canavan, David Thomas, Judy Lane, Louise Hara, and Triad Smith.

Mansfield distributed a letter dated January 22, 1996, from abutter Michael Abend, detailing what he believes to be survey discrepancies on the lot line separating his property from that of the applicant, and also providing comments on traffic planning issues. Colman noted that when a plan, such as the applicant's subdivision plan, is stamped by an engineer, that engineer carries the liability for its accuracy and it is not the Board's responsibility to pursue it. LaLiberte agreed, adding that the Board should not require the expense of further survey work to resolve this apparent discrepancy. March observed that he is aware of this issue. He explained that the property line is a drainage ditch, but that the earlier survey referenced by Abend located fewer points on the tangent than his survey, so that the line tended to come out of the ditch at some locations. He located more points to bring the line into the ditch, thus more closely approximating the natural

boundary. He concluded that the ditch is the correct property line, no matter what the previous survey might imply.

Kathleen Coyle of 125 Maple St., who said she abuts both properties, stated that she had a history of difficulties with the common property line. Abend's survey was six feet into her property, she claimed, and Costello's surveyor found the correct monument. In her opinion, Abend's survey was flawed, and she supported March's statement.

March then submitted a letter dated January 22, 1996, in response to LandTech's comments dated January 11, and also including revised plans and drainage calculations. He summarized the issues as follows: (1) transposed lot numbers have been corrected; (2) culverts have been shown; (3) percolation tests were completed on Joinery 19; (4) the grading has been revised for one catch basin; and (5) drainage calculations have been revised, but the drainage design has not changed. He next addressed issues raised by the Board on December 18. He said that since no trees or walls will be removed in the Maple St. right-of-way for this project, no scenic road hearing is required. His traffic analysis has estimated 150 trip origins from this project per day, or 10 per lot. Finally, the applicant will offer any lot of the Planning Board's choice to satisfy the 3-year open space set-aside requirement.

The Board then scheduled a site walk for 9:00, Sunday, January 28, agreeing to meet March at the meadow on Maple St., and inviting any interested abutters to join them.

Epstein asked March to review Abend's discussion on traffic volumes and impacts. March replied that he believes his estimates and Abend's are the same, but Epstein pointed to Abend's peak hour estimate of 15 trips. March replied that he had no expertise in traffic engineering.

Yanofsky noted that no waivers have been requested, and questioned whether the Board can solicit waiver requests, surmising that certain waivers could result in an improved plan. March observed that such a process has been followed by the Board before, specifically, for Tall Pines. For example, he said, a waiver was granted that limits the clearing required within the road right-of-way, and the same waiver might be appropriate here. Costello added that he would be reluctant to ask for waivers unless he could be quite certain in advance that they would be granted. Yanofsky concluded that, as it stands, there may not be anything that the Board can object to in this plan.

Colman then opened the hearing for public comment. Coyle asked the Board for permission to make an organized presentation. The purpose, she said, is to acquaint Board members with the importance of this piece of land. Only one abutter, she said, is in favor of this proposal. The neighbors' greatest concerns are about water and drainage issues. People have been talking about the future of this piece of property for a long time. In 1969, this land was considered as a site for a solid waste transfer station, or dump, and the neighbors became galvanized then. The Conservation Commission members

thought the town should consider this property as a public water supply source. The Solid Waste Disposal Committee rejected the site for their purposes because of the properties of the soil and the water situation. This is a water regeneration area, she claimed, and "messaging around" with it will affect abutters' sources of water.

Coyle cited a 1973 report prepared by Dabney Caldwell of Boston University, a "Study of Hydrographic and Geologic Conditions in Carlisle," to support her points. She noted that this was a town-wide study, commissioned by the Town, but it does not specifically refer to this site. She also noted that the current Open Space and Recreation Plan, which ranks this property on the priority list for preservation, supports the belief of the abutters that this land is important for Carlisle.

She then introduced Dr. Tony Mariano of 48 Page Brook Rd., a geologist, and Bonnie Miskolczy, a former Conservation Commission member, for further remarks. Colman cautioned that the time allotted for the hearing was nearing its end, and asked Mariano to be brief. Mariano illustrated his remarks with slides taken on the site, mostly in the 1970's. He explained that the area is an outwash plain that extends to Bates Pond. He contended that the USGS maps are inaccurate regarding the landform, and noted that outcrop rocks are very scarce in this area. He stated that extensive gravel pit operations on the site were terminated in the 1950's, but he showed several bodies of standing water photographed in May, 1971. He claimed that much of the site has water present less than 10 feet below the surface, and said he has seen more extensive surface water than his slides depict. He added that Dabney Caldwell believed that this portion of the town should be a restricted aquifer area.

Mariano also illustrated a former trail through the property from Brook St. to Maple St., but noted that the Brook St. end had been recently replaced by a private driveway. Coyle expressed her belief that there is an easement on this trail (but none is shown on the plans).

Observing the time, Hengeveld moved continuation of this hearing to 8:15 p.m. on February 12, 1996, and Tice seconded the motion, which was approved unanimously. Mansfield noted that the Conservation Commission will open a hearing on this project on February 1.

Review of Tall Pines Conservation Restriction Documents

The Board discussed whether to give consent to the present form of the documents providing conservation restrictions, building restrictions, a trail easement, and a pedestrian easement as requested by the Planning Board, provided by Bill Costello, and last reviewed by Town Counsel on December 28, 1995, so that they might be forwarded to the Board of Selectmen for their signatures. In her opinion, Town Counsel Elizabeth Lane had concluded that such action would secure these restrictions in perpetuity. Also in question were the releases of 6 lots granted by

the Board on November 27, 1995, but with two conditions: (1) that the conveyance of lot 8 (which includes a proposed restriction) shall be subject to the right of the Planning Board to obtain the Selectmen's signatures on the conservation restriction documents; and (2) that LaLiberte approve the form of the proposed purchase and sale agreement and the deed to lot 8, and that Costello provide the Board a copy of both approved documents. Mansfield had reminded the Board that the lot releases had never been signed by the requisite number of Board members, presumably because the above conditions had not been fulfilled.

LaLiberte proposed, based on Town Counsel's opinion, that if the documents are formally approved by the Selectmen, the lot releases can be finally approved. Costello said he had a different understanding of the November 27th action. He recalled that he had told the Board in November that he would be looking for a release of an additional 6 lots in late winter, but he was not interested in putting up a performance bond since the remaining, unreleased lots would represent 20 times the security necessary to finish the improvements. Epstein said that although the Board was comfortable with the release of 6 lots, he understood they may not be comfortable with releasing 12. Yanofsky cited a 1993 opinion from Town Counsel suggesting that performance protection may be compromised in the incremental release of lots. Colman restated Yanofsky's question, is the Board comfortable with the current situation, or do they desire additional security for this subdivision? But Costello responded, estimating the amount of work remaining on the roads to be only \$12,500 per lot. He asked whether the Board would require that he finish the roads before releasing any more lots. Yanofsky asked Costello to put this question in writing, with backup information about the costs of completion and the value of the lots. Then, Colman agreed, the Board would have a response.

Epstein returned to the question of whether Costello would provide the P&S agreement for lot 8, and what happened to that agreement. Costello reported that that P&S had fallen through, but that a new agreement was underway. That agreement, he said, would not preclude recording the conservation easement documents when they are ready, but although he would be happy to have LaLiberte review the draft deed to lot 8, he would not show him the P&S. Epstein recollected, however, that the P&S would reflect the right to record conservation restrictions at a later date. Costello agreed, and all agreed that if the Selectmen sign the documents in a timely manner, the question is moot.

Judy Lane, who was present for this discussion, stated that she would be at the Selectmen's meeting on January 23, along with members of the Conservation Commission, to make sure the Selectmen sign the documents. She also suggested that the Board hold lot 10 in escrow to guarantee the completion of the road. But Yanofsky pointed out that lot 10 would have to be sold if the Town needed the cash to finish the road itself, and this was contrary to the desire to preserve that lot for conservation purposes. Colman said that other lots could be held, but cash or a bond might be preferable.

LaLiberte proposed that Mansfield be authorized to submit the conservation restriction documents to the Board of Selectmen for their signature on January 23, and the Board concurred without a vote. Epstein further suggested that arrangements be made with Town Counsel to record the signed documents with copies returned to the Board. Finally, after the Selectmen sign, Duscha agreed to sign the lot releases approved on November 27.

CONTINUED PUBLIC HEARING: Baldwin Rd. Special Permit for Common Drive

Colman reopened the hearing at 9:09 p.m. Scott Evans and attorney Valerie Swett were present. Evans reported that the Police Chief said he had responded twice, in writing, giving his approval to the name of "White Tail Run" for the common drive. Mansfield concurred, noting that the first response was misfiled. Yanofsky asked whether there had been any response from the Fire Chief. Mansfield replied that he had received no response, but reminded the Board that they had sought more than just approval of the driveway name from Chief Koning, and that Colman had agreed on December 18 that he would call the Chief to discuss any concerns he might have about the driveway. Colman reported that he had left the Chief two messages, but has not heard back from him. He added that he could have missed a return call because he was out of town last week. Duscha clarified that she has concerns about the fire safety of the driveway in its general location, at the end of a dead-end road, rather than about its layout. Colman offered once again to contact the Chief to discuss these concerns.

Evans stated that he would interpret Chief Koning's lack of response to mean that he is not troubled by any safety issues inherent in this plan, adding that he believes the Chief is very familiar with the location and with the plan, given his active participation in town government. Duscha replied that she has heard, second-hand, that the Chief is concerned by a dead-end road providing access to more than 15 lots, and although subdivision regulations don't apply to a special permit situation such as this, she would like to hear directly what his concerns about safety might be. Swett noted that the failure of an official to reply may be deemed to be approval of the application as submitted, according to the statute.

Yanofsky said that she was very pleased with the most recent form of the document setting out the common driveway easement and maintenance agreement, and LaLiberte concurred. Duscha raised a question about the "continuous year-round access" for construction vehicles as provided by paragraph #2, asking whether that would allow them to go beyond the proposed houses. Evans responded that that provision was strictly to serve the three homes accessed from the driveway.

Board members once again reviewed the plans. Epstein asked to be shown the limits of the common drive easement, expressed appreciation for the applicant's patience in this process, and concluded that he had no

problems with the plan. Yanofsky and Hengeveld each raised questions about the location of the sign defining the beginning of the common driveway, and agreed that the location they were shown was appropriate.

Recalling that Evans had stated previously that he would not entertain a request for a trail easement "at this time," Yanofsky asked when he might consider it. Evans replied that, although he could not speak definitively for his parents, the answer will depend upon what eventually happens to Parcel A. When that decision is made, there will be another application before the Board, he said, and that will be the appropriate time to locate a trail easement. He could anticipate, however, that the easement will run along the shore of the pond. Yanofsky expressed concern that this is a wet area. Colman noted that such a discussion has no meaning at this time. But Yanofsky again said she was uneasy about this location and prefers a year-round trail, such as could be provided on the common driveway easement. She asked what value the town was getting in exchange for granting this permit. Evans replied that the town is getting good access to two new lots, a cul-de-sac to allow vehicles to turn around at the end, and avoiding a wetland crossing. He said that, in his opinion, adding a trial easement to this plan will increase traffic in this area. But Yanofsky responded that she would not request any parking for this site so that the number of people who would use this trail would be minimum and they would arrive on foot.

Evans continued to list his objection to a trail. He noted that there is no pedestrian access to other trails from the end of the driveway, except possibly across the Flannery property. Many people would want to drive here and park to walk, he said. In summary, he does not believe that the common driveway is a good location for a trail, and although agreeing with Yanofsky that the alternate location would not provide year-round access, he concluded that this was not necessary for a neighborhood trail. Yanofsky argued, however, if Evans saw this as a neighborhood trail, then people would not be driving to it.

Colman asked the Board to focus its discussion on the petition. Duscha reiterated that she wanted a response from the Fire Chief. Yanofsky said once again she was unhappy with the lack of a trail. Evans asked why members of the Trails Committee weren't present if this was an important consideration. Duscha said it would have been preferable to resolve these questions early in the process. Yanofsky agreed, but observed that Ken Harte and Jay Luby had been present at previous sessions of the hearing. She suggested that applicants would be well advised to talk to the Trails Committee before coming to the Planning Board.

Epstein asked about Evans' time frame for this project, and whether he was willing to wait for the Board to gather more information. Evans replied that he was well behind his schedule, and that he was almost ready to withdraw the application and build two driveways. Colman reminded the Board and the applicant that only five members were eligible to vote, since both he and Epstein had missed hearings. LaLiberte saw no need to delay a decision, concluding that the Fire

Chief will raise the same concerns some members of the Board now have. He said that we are either satisfied with this location, or we are not. Duscha expressed regret that the process has continued this long and that the number of eligible members has dwindled.

Yanofsky then moved approval of the common driveway application for White Tail Run, incorporating the maintenance agreement last revised December 20, 1995. Hengeveld seconded the motion. The motion FAILED TO CARRY by a vote of 4 in favor (LaLiberte, Hengeveld, Tice and Yanofsky) and 1 opposed (Duscha). The application was thereby DENIED.

Swett noted that the project would need to submit a new ANR plan.

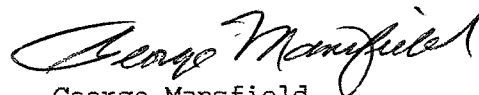
Tice moved that the hearing be closed; Hengeveld seconded the motion, and it was approved unanimously.

Lowell Rd. Special Permit for Common Drive (Review of draft decision)

Duscha observed that since she didn't make her decision based on what the owners of the property might plan to do with it in the future, the decision document should not include that speculation. She also asked that the reference to a request for a trail easement that was not granted be deleted because it was not relevant. Yanofsky replied that those decision criteria may not apply to everyone on the Board, but agreed, as did the other members, that these references were not necessary. Mansfield said he would delete them from the draft. He also noted that the maintenance agreement does not have both applicants' signatures, only that of Tariot, and is not dated. He said he would contact Shield and get her notarized signature. Colman withheld his signature from the plan until Shield's signature had been obtained, and Mansfield agreed not to file the decision until after that is accomplished. (It must be filed within 90 days of the close of the hearing, or March 15, 1996.)

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,



George Mansfield
Planning Administrator